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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.440 OF 2007

Sureshchandra Adiytanarayan Upadhya ... Petitioner

Vs.

Shri Anil Dabade,
Senior Inspector of Police,
Manikpur Police Station, Vasai & Ors. ... Respondents

Mr. P.B. Shah for the petitioner.

Mr. S.R. Borulkar, Public Prosecutor with Mr. M.S. Mhambre, A.P.P. for the State.

Mr. S.R. Chitnis with Mr. V.R. Raje for respondent 3.

**CORAM : SMT. RANJANA DESAI &**
**D. B. BHOSALE, JJ.**

**DATED : 20TH MARCH, 2007.**

**P.C.:**-

1. We have heard Mr. Shah, the learned counsel for the petitioner, the petitioner in person and Mr. Borulkar, the learned public prosecutor for the State.

2. The fear of the petitioner basically was that the video recording done by him may be tampered with. On the last occasion, therefore, we had directed the Investigating Officer to bring the sealed articles from the police station to the Office of the Public Prosecutor, High Court, Mumbai. We had further

directed that the seal shall be opened in the presence of Mr. Borulkar, Public Prosecutor, Mr. M.S. Mhambre, A.P.P. and Mr. C.V. Bhadang, the Registrar (Judicial) of this court. We had also directed that the recording shall be seen by the above persons in the presence of the investigating officer and, thereafter, the said articles shall be resealed in the presence of Mr. Bhadang, Registrar (Judicial) of this court and they shall be sent back to the police station. A report was directed to be submitted to us. The entire exercise was carried out as directed by us.

3. Today, a compliance report was submitted in a sealed cover. We opened the sealed cover in the court. We have perused the report. We direct that two copies of the said report be made out of which one shall remain in a sealed cover with the Investigating Officer and the other shall remain in a sealed cover with J.M.F.C., Vasai. It would be open for the trial court to open the sealed cover containing the report, if necessary, and more particularly if during the trial any allegation of tampering with the video recording is made. Needless to say that the original report will be re-sealed and the same shall be kept with Mr. Bhadang, Registrar (Judicial) of this court. In our opinion, the abovementioned articles will also remain sealed till such time as the case is investigated and the charge-sheet is filed. Thereafter, appropriate orders may be taken from the concerned Magistrate. If the petitioner makes appropriate application before the concerned Magistrate for return of the camera, the learned Magistrate shall deal with it in accordance with law. If he passes order of return of camera, it may be handed over to the petitioner after

opening the seal in accordance with law. Needless to say that the cassette shall not be returned to the petitioner. It shall remain in sealed condition till the charge-sheet is filed and thereafter appropriate orders will be passed by the concerned Magistrate. Mr. Shah, on instructions from the petitioner states that he may be permitted to withdraw his appearance. This request was made at the last minute. We, therefore, decline to grant this prayer. However, in the interest of justice, we have heard the petitioner in person. In view of the above, in our opinion, the petition has worked itself out. The petition is disposed of.

[SMT. RANJANA DESAI, J.]

[D. B. BHOSALE, J.]